

**FILED**UNITED STATES DISTRICT COURT  
ALBUQUERQUE, NEW MEXICO**United States District Court**  
IN THE DISTRICT OF NEW MEXICO

MAR 22 2011

*meg*MATTHEW J. BYRMAN  
CLERK

UNITED STATES OF AMERICA

v.

**CRIMINAL COMPLAINT**ERVIN YAZZIE  
YOB: 1978CASE NUMBER: 11-MJ-684  
11-MG-022

I, the undersigned complainant, being duly sworn state the following is true and correct to the best of my knowledge and belief. On or about July 17, 2008, in McKinley County, in the District of New Mexico, defendant did knowingly commit the offense of Assault with a Dangerous Weapon and Assault Resulting in Serious Bodily Injury in violation of Title 18 United States Code, Section(s): 1153, 113(3) and (6). Ervin Yazzie and Elaine Jones are each registered members of the Navajo Nation. The aforementioned criminal act occurred within the exterior boundaries of the Navajo Indian Reservation, or Indian Country.

I further state that I am a Special Agent and that this complaint is based on the following facts:

- See Attached Affidavit hereby incorporated by reference as if fully restated herein.

Continued on the attached sheet and made a part hereof: ☒ Yes ☐ No

AUSA - Glynette Carson-McNabb  
Sworn to before me and subscribed in my presence,

*[Signature]*  
SA Matthew W. Collar  
Special Agent  
Federal Bureau of Investigation

Date

3/22/11

at

Gallup, NM  
City and State

Robert W. Ionta, United States Magistrate Judge  
Name & Title of Judicial Officer

*[Signature]*  
Signature of Judicial Officer

IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF NEW MEXICO

UNITED STATES OF AMERICA

VS.

ERVIN YAZZIE  
YOB: 1978

CASE NO. 11-MJ-684

11-MG-082

AFFIDAVIT IN SUPPORT OF  
ARREST WARRANT

AFFIDAVIT

I, the undersigned, being duly sworn, hereby depose and state  
as follows:

1. Your affiant is a Special Agent (SA) of the Federal Bureau of Investigation (FBI) and has been employed in that capacity since January of 2008. Your affiant was previously employed by the Montana Highway Patrol and Bozeman Police Department since 1998. Your affiant is currently assigned to the Albuquerque Division of the FBI, Gallup Resident Agency, and has primary investigative responsibility for crimes occurring within Indian Country; including violent crimes such as homicide, robbery, arson, aggravated assault, and sexual assault. The information set forth in this affidavit has been derived from investigation conducted by your affiant, and/or communicated to me by other sworn Law Enforcement Officers.

2. Your affiant is aware that on August 12, 2008, Navajo Crownpoint Police Department (NPD) Officer Joel Leuppe received report of an aggravated assault that had previously

1 occurred on July 17, 2008, near the Twin Lakes Chapter House,  
2 northeast of Tohlakai, New Mexico.

3  
4 (a) NPD Officer Leuppe determined that Elaine Jones  
5 had become engaged in a verbal dispute with Ervin Yazzie while  
6 consuming alcohol with her cousin resulting in Jones being  
7 beaten unconscious with a baseball bat.

8  
9 (b) Jones received significant head injuries and was  
10 transported in a comatose condition to the University of New  
11 Mexico Hospital (UNMH) in Albuquerque, NM for admission into  
12 the Intensive Care Unit (ICU).

13  
14 3. Your affiant is aware that on August 11, 2008,  
15 NPD Criminal Investigator (CI) Larry Etsitty conducted an  
16 interview with Eddie Yazzie (Eddie) at his residence near  
17 Tohlakai, New Mexico. Eddie provided CI Etsitty with the  
18 following information:

19  
20 (a) Eddie described consuming alcohol with his cousin  
21 Elaine Jones during the evening of July 17, 2008, while on a  
22 hillside located one-quarter mile south of his residence.

23  
24 (b) Eddie described Jones yelling at a person while  
25 on the hillside and subsequently observing Ervin Yazzie  
26 approach Jones in possession of a baseball bat.

27  
28 (c) Eddie observed Yazzie make a swinging motion with

1 the baseball bat and Jones fall to the ground moaning in pain  
2 with blood coming from her mouth.

3  
4 4. Your affiant is aware that on August 12, 2008,  
5 NPD Criminal Investigator (CI) Larry Etsitty conducted an  
6 interview with Pamela Smith at her residence in Tohlakai, New  
7 Mexico. Smith provided CI Etsitty with the following  
8 information:

9  
10 (a) Smith spoke with Ervin Yazzie at her residence on  
11 the evening of July 17, 2008, and observed Yazzie in possession  
12 of a baseball bat. Yazzie advised Smith that the baseball bat  
13 was for protection against skin-walkers.

14  
15 5. Your affiant is aware that on September 23, 2008,  
16 NPD Criminal Investigator (CI) Larry Etsitty conducted an  
17 interview with Elaine Jones at her residence in Tohlakai, New  
18 Mexico. Jones provided CI Etsitty with the following  
19 information:

20  
21 (a) Jones described purchasing quantities of alcohol  
22 at the Sagebrush Bar with cousin Eddie Yazzie on July 17, 2008,  
23 and consuming it with him on a hillside near her residence.

24  
25 (b) Jones was unable to recollect any subsequent  
26 events until regaining consciousness in the UNMH Intensive Care  
27 Unit approximately (2) weeks later.

1           6. On October 3, 2008, your affiant received medical  
2 records from the Gallup Indian Medical Center (GIMC) pertaining  
3 to the treatment of Elaine Jones on July 18, 2008. These  
4 records identified the following sustained injuries:

5  
6           (a) Basilar skull fractures involving the left  
7 occipital bone with extension to the foramen magnum, right  
8 occipital bone extending to the mastoid air cells, and sphenoid  
9 sinus, with fracture traversing the right carotid canal;  
10 subarachnoid hemorrhage about the anterior right temporal lobe  
11 and high right convexity; comminuted bilateral maxillary sinus  
12 wall fractures; and mandibular fracture.

13  
14           7. On March 18, 2010, your affiant submitted the  
15 baseball bat previously seized by NPD and obtained buccal swabs  
16 from Elaine Jones to the FBI Laboratory in Quantico, Virginia  
17 with a request to conduct examinations for the presence of  
18 latent fingerprints and blood transfer evidence.

19  
20           8. On February 17, 2011, your affiant received a  
21 Report of Examination from the Nuclear DNA Unit at the FBI  
22 Laboratory in Quantico, Virginia indicating that serological  
23 examination of the baseball bat had identified the presence of  
24 a female DNA blood specimen.

25  
26           (a) Comparative nuclear analysis of the DNA specimen  
27 with the provided buccal swabs positively identified the blood  
28 source as Elaine Jones.


1           9. On March 21, 2010, your affiant was contacted by  
2 the Latent Print Operations Unit at the FBI Laboratory in  
3 Quantico, Virginia with preliminary examination results  
4 identifying the presence of a latent fingerprint on the  
5 baseball bat suitable for comparison within the Integrated  
6 Automated Fingerprint Identification System (IAFIS).

7  
8           (a) IAFIS inquiries positively identified Ervin  
9 Yazzie as the source of the latent fingerprint.

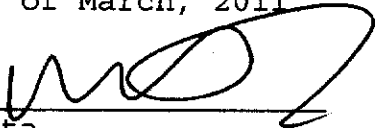
10  
11           10. Your affiant is aware that Ervin Yazzie and  
12 Elaine Jones have each been identified as enrolled members of  
13 the Navajo Nation, and that the geographic location of the  
14 incident has been determined to be within the exterior  
15 boundaries of the Navajo Indian Reservation, or Indian Country.

16  
17           11. Based on the information set forth in this  
18 affidavit, your affiant submits that there is probable cause to  
19 believe that Ervin Yazzie did commit the offense of Assault  
20 with a Dangerous Weapon and Assault Resulting in Serious Bodily  
21 Injury in violation of Title 18 United States Code Section(s):  
22 1153, 113(3) and (6).

23  
24           12. I swear that this information is true and  
25 correct to the best of my knowledge and belief.

  
Matthew W. Collar  
Special Agent  
Federal Bureau of Investigation  
Gallup, New Mexico

Subscribed and sworn to before me  
this 22 day of March, 2011

  
Robert W. Ionta  
United States Magistrate Judge